

Land and Mineral Services Division

Rules for Underground Gas Storage Leases on State Lands

(By authority conferred on the Department of Natural Resources by section 2 and 12 of Act No. 280 of the Public Acts of 1909, as amended, sections 1 and 27 of Act No. 326 of the Public Acts of 1913, as amended, and section 2 of Act No. 17 of the Public Acts of 1921, as amended being 322.202, 322.212, 322.401, 322.427, and 299.2 of the Michigan Compiled Laws)

Definitions.

Rule 101

(1) As used in these rules:

- (a) "Bonus payment" means a payment by the buyer to the lessor at the time of sale as part of the consideration for acquisition of a gas storage lease.
- (b) "Commission" means the Michigan Natural Resources Commission.
- (c) "Condensate" means the liquid resulting when a vapor is subjected to cooling and/or pressure reduction. Also, liquid hydrocarbons condensed from gas and oil wells.
- (d) "Department" means the Michigan Department of Natural Resources.
- (e) "Development lease" means a lease that allows the use of the surface of State lands for gas storage activities.
- (f) "Development plan" means a storage field plan that includes but is not limited to proposed locations for surface equipment, well locations, pipelines and roads.
- (g) "Gas" means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in subsurface reservoirs, often in association with petroleum.
- (h) "Land" means any property description in which the State owns any gas storage rights.
- (i) "Lease" means a direct lease issued as the result of individual negotiations with the Commission.
- (j) "Lessee" means the owner(s) of a gas storage lease as shown in the records of the Department.
- (k) "Lessor" means the Commission.
- (l) "Nondevelopment lease" means a lease that does not allow any use of the land surface, including the surface of submerged bottomlands for gas storage activities.
- (m) "Nonleasable lands" means lands that will not be leased for gas storage purposes.
- (n) "Performance bond" means a surety bond, irrevocable letter of credit, or cash bond to guarantee that the lessee and the lessee's heirs, executors, administrators, successors, and assigns shall faithfully perform the covenants, conditions, and agreements specified in the lease and in the laws and administrative rules of the State of Michigan.

(o) "Oil" means natural crude oil or petroleum, and other hydrocarbons that are in the liquid form in the subsurface reservoir and recovered as a liquid by ordinary production methods.

(p) "Qualified party" means an individual of the age of majority or a partnership, corporation, or other legal entity qualified to do business in the State of Michigan.

Lease Applications; notice of location and classification of lands.

Rule 102.

(1) Any party may submit applications identifying State lands desired for gas storage leasing.

(2) Applications for state lands desired to be considered for leasing shall be in writing and shall be submitted to the Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, or such other address as applicable. Applications shall include all of the following information:

(a) The specific land description, including private claims and submerged lands.

(b) County.

(c) Section.

(d) Township.

(e) Range.

(f) For platted subdivisions, the lot and block numbers, subdivision name, and county.

(g) Development plan.

(3) An application fee shall accompany the written application and shall be in accordance with the fee schedule approved by the commission.

(4) The Department shall identify all available lands requested for leasing and shall recommend to the Commission its classifications for leasing as development, nondevelopment, or nonleasable. The department shall publish a notice describing the general location of the lands for leasing and the classification in a newspaper, as defined in Section 1461 of Act No. 236 of the Public Acts of 1961, as amended, being 600.1461 of the Michigan Compiled Laws, not less than 10 days before the Commission takes final action on the lands classifications. This notice shall be published at least once in a newspaper in the county where the lands are situated. If a newspaper is not published in the county where the lands are situated, the notice shall be published in a newspaper in a county adjoining the county in which the lands are located.

Leasing Procedure.

Rule 105.

(1) The Commission may enter into leases (1) when it is determined to be in the best interest of the State, (2) for completion of a gas storage field or (3) for consolidation of fractional interest owned or controlled by the applicant.

(2) The Commission shall stipulate the terms and conditions under which lands may be offered.

(3) Any qualified party may request a lease.

(4) The full amount of the bonus payment shall be paid upon receipt of notice from Lessor.

Awarding of leases.

Rule 106.

- (1) Commission approval is required before any lease may be granted. The Commission reserves the right to deny any and all lease requests with reasons stated.
- (2) Any lease issued will include all State-owned surface descriptions within the development plan as approved by the Commission.
- (3) Before a lease shall be executed for any state lands, the lessee shall file a performance bond acceptable to the lessor. The amount of performance bond, maximum acreage covered, and when and how the bond may be drawn upon shall be specified by the Commission.
- (4) Two copies of each lease instrument shall be provided, by certified mail, to the lessee for signature. Unless otherwise agreed to in writing by the lessor, the lessee shall return all copies, properly executed, with proper performance bond, within 36 days from the date of receipt shown on the receipt form of the post office department.
- (5) If the lessee is unable to return the lease forms and performance bond within the time specified, the lessor may, upon request of lessee, authorize additional time if the lessor determines that the delay is not the fault of lessee. Failure of the lessee to comply within time limits authorized shall result in forfeiture of the entire bonus payment.
- (6) The original copy of the properly executed lease shall be returned to the lessee and the duplicate copy shall be retained by the lessor.
- (7) No operations on any State-owned land shall begin until a fully executed lease has been received by the lessee.
- (8) All leases shall be subject to all applicable federal and state laws and administrative rules. No administrative rules made after the approval of this lease shall operate to affect the primary term of lease, rental or acreage, unless agreed to by both parties.
- (9) The commission may require any lease applicant to submit the following information
 - (a) If an individual, proof of attainment of legal age.
 - (b) If a copartnership, a certified copy of the registration or a sworn statement signed by one partner setting forth the names and addresses of all partners and the articles of partnership.
 - (c) If a corporation or other legal entity, copies of the incorporation papers showing qualifications to do business in the State of Michigan. The lessee shall file these papers with the lessor within 30 days from the date of receipt of the lessor's notice as shown on the receipt form of the post office department.

Lease; forms; determination of terms; preclusion of certain other leases prohibited; issuance in name of party other than successful bidder prohibited; responsibility for compliance.

Rule 107.

- (1) The lease terms and conditions shall be on a form prescribed by the Commission.
- (2) A lease for gas storage on any lands shall not preclude other leases for oil & gas, metallic and nonmetallic minerals where such joint operations might prove feasible.
- (3) The lessee and lessor shall be responsible for compliance with all terms and conditions of the lease.